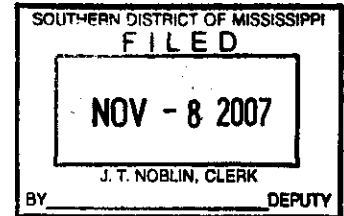


IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION



MARGARET S. PATTON, INDIVIDUALLY,  
AND AS LEGAL REPRESENTATIVE OF THE  
HEIRS-AT-LAW OF ORIS RED PATTON, DECEASED

PLAINTIFF

VS.

CIVIL ACTION NO. 3:07cv00653-DPJ-JCS

MOBILE MEDIC AMBULANCE SERVICE, INC.  
D/B/A AMERICAN MEDICAL RESPONSE, INC.,  
WILLIAM BASSETT, AND JOHN DOES 1-20

DEFENDANTS

NOTICE OF REMOVAL

TO: Ms. Margaret Patton  
c/o Bill Waller, Sr., Esq.  
Waller & Waller  
P.O. Box 4  
Jackson, Mississippi 39205

Bill Waller, Sr., Esq.  
Waller & Waller  
P.O. Box 4  
Jackson, Mississippi 39205

Honorable Barbara Dunn  
Hinds County Circuit Clerk  
Post Office Box 327  
Jackson, Mississippi 39205-0327

YOU WILL PLEASE TAKE NOTICE that this Notice of Removal and the exhibits attached hereto have been filed this day for and on behalf of defendant Mobile Medic Ambulance Service, Inc. d/b/a American Medical Response, Inc., in the United States District Court for the Southern District of Mississippi, Jackson Division. You are hereby served with a copy of this Notice of Removal of said cause to the United States District Court from the Circuit Court of Hinds County, Mississippi, upon the grounds stated herein. Pursuant to said removal, you will proceed no further in said Circuit Court of Hinds County, Mississippi, and you will be mindful of the provisions of Title 28 U.S.C. Section 1441, *et seq.* Please take notice hereof and govern yourselves accordingly.

As its short and plain statement of the grounds for removal of this civil action, Defendant would show unto the Court the following:

I.

There is now pending in the Circuit Court of Hinds County, Mississippi, a certain civil action styled "Margaret S. Patton, Individually, and as Legal Representative of the Heirs-at-Law of Oris Red Patton, Deceased v. Mobile Medic Ambulance Service, Inc. d/b/a American Medical Response, Inc., William Bassett, and John Does 1-20" being civil action number 251-07-976CIV on the docket of said Court. Said civil action is an action for the wrongful death of Oris Red Patton. The time within which Defendant is required to plead, answer or otherwise respond to the Complaint has not yet expired, and the thirty-day period within which to file for and obtain removal of said civil action has not yet expired.

II.

The plaintiff was alleged at the time the Complaint was filed to be an adult resident citizen of Rankin County, Mississippi, and defendant avers that plaintiff is, at the time of the filing of this Notice of Removal, still an adult resident citizen of Rankin County, Mississippi. Defendant Mobile Medic Ambulance Service, Inc. d/b/a American Medical Response, Inc., was at the time the Complaint was filed and is presently a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Colorado. Defendant William Bassett is and was at the time of the acts complained of a resident of the State of Mississippi, but is fraudulently joined in this action as set forth in paragraph IV, below. His citizenship is therefore disregarded for purposes of establishing diversity.

III.

Although the Complaint does not specify the amount of damages which the plaintiff seeks, it is facially apparent that the amount in controversy in said civil action exceeds the sum and value of \$75,000, exclusive of interest and costs, by reason of the fact that the plaintiff seeks damages for the wrongful death Oris Red Patton, whom Plaintiff alleges was, at the time of his death, "in

good health and able to care for himself and his family." See Exh. "A," Complaint at ¶9. Plaintiff further seeks damages for pain and suffering, financial support, loss of society, love and affection, hedonic damages, pre-judgment interest, loss of quality of life, and punitive damages. See Exh. "A" at ¶9, 20, 26, 34. Therefore the \$75,000 amount in controversy requirement of 28 U.S.C. § 1332 is satisfied in this case. See *American Heritage Life Ins. Co. v. Lang*, 321 F.3d 533, 537 (5th Cir. 2003); *Rodriguez v. Kivett's Inc.*, 2006 U.S. Dist. LEXIS 70254, \*3 (S.D. Miss. 2006) ("The subject Complaint does not specify a dollar amount of damages sought by Plaintiff. . . . [A]s Plaintiff seeks compensatory and punitive damages arising from the alleged wrongful death of Barahona, the Court finds it is facially apparent that she is seeking damages in an amount greater than the jurisdictional limit."); *De Aguilar v. Boeing Co.*, 11 F.3d 55, 57 (5th Cir. 1993) ("[A]lthough the complaint in the instant case did not specify an amount of damages, it is facially apparent . . . that the claims in this case—claims for wrongful death, terror in anticipation of death, loss companionship, and funeral expenses—did exceed [the jurisdictional amount].")

#### IV.

Defendant Bassett is fraudulently joined as a defendant, and his citizenship therefore does not defeat diversity jurisdiction, for the following reasons:

- (a) Defendant Bassett is the only Mississippi resident sued in this case;
- (b) The allegations contained in the complaint fail to state a cognizable claim for relief as to Defendant Bassett, individually, since he owed a duty only to his employer, Defendant American Medical Response, Inc., but owed no duty to Plaintiff. See *Howard v. Harper*, 947 So. 2d 854 (Miss. 2006); *Bradshaw v. Mariner Health Care, Inc.*, 2007 U.S. Dist. LEXIS 26593 (N.D. Miss. 2007).
- (c) The allegations contained in the complaint fail to state a cognizable claim for relief as to Defendant Bassett, individually, since he is not alleged to have been a direct participant in

the care rendered to Oris Red Patton. *See Gray v. Beverly Enterprises-Miss., Inc.*, 390 F.3d 400, 410 (5th Cir. 2004).

V.

Defendant Bassett joins in this Notice of Removal. See Exh. "B."

VI.

Pursuant to the provisions of Title 28 U.S.C. Section 1441, et seq., this civil action is removable by Defendant.

VII.

Defendant attaches hereto, as Exhibit "A," a complete copy of the court file served upon it in Civil Action No. 251-07-976CIV in the Circuit Court of Hinds County, Mississippi, and asks that said exhibit be considered a part hereof the same as though copied herein in words and figures in full.

VIII.

Defendant, upon the filing of this Notice of Removal, has given notice to plaintiff, Margaret S. Patton, Individually, and as Legal Representative of the Heirs-At-Law of Oris Red Patton, Deceased, and her attorney of record, Bill Waller, Sr., of Jackson, Mississippi, of the filing of said Notice of Removal of said civil action, and simultaneously therewith, the defendant has filed a true and correct copy of the Notice of Removal with the Clerk of the Circuit Court of Hinds County, Mississippi, together with the exhibits thereto, all in compliance with Title 28 U.S.C. Section 1446(d).

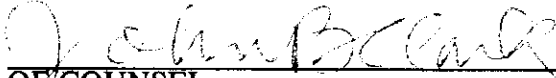
WHEREFORE, PREMISES CONSIDERED, Mobile Medic Ambulance Service, Inc. d/b/a American Medical Response, Inc., prays that this Notice of Removal and exhibits thereto be received and filed, and that the said Circuit Court of Hinds County, Mississippi, proceed no

further herein. Defendant further prays for all necessary writs to bring before this Honorable Court all records and proceedings in the said Circuit Court of Hinds County, Mississippi, and defendant prays for such other, further, special and general relief as it is entitled to receive.

Respectfully submitted,

MOBILE MEDIC AMBULANCE SERVICE, INC. D/B/A  
AMERICAN MEDICAL RESPONSE, INC.

BY:

  
OF COUNSEL

JOHN B. CLARK - BAR # 6263  
TOM JULIAN - BAR # 101905  
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I, John B. Clark, attorney for Mobile Medic Ambulance Service, Inc. d/b/a American Medical Response, Inc. defendant herein, hereby certify that I have this day filed the original of the above and foregoing Notice of Removal and exhibits thereto in the United States District Court for the Southern District of Mississippi, Southern Division, and that upon the filing of the original notice and exhibits thereto, I have served a true and correct copy of the said notice and exhibits on:


Margaret S. Patton, Individually, and as Legal Representative of the Heirs-At-Law of Oris Red Patton, Deceased, plaintiff, in care of her attorney, Bill Waller, Sr., by mailing to his usual business address in Jackson, Mississippi;

Bill Waller, Sr., attorney of record for the plaintiff, Margaret S. Patton, Individually, and as Legal Representative of the Heirs-At-Law of Oris Red Patton, Deceased, by mailing to his usual business address in Jackson, Mississippi; and

Barbara Dunn, Circuit Clerk of Hinds County, Mississippi, by mailing to her usual business address at Jackson, Mississippi;

all to effectuate the removal of a civil action entitled, "Margaret S. Patton, Individually, and as Legal Representative of the Heirs-at-Law of Oris Red Patton, Deceased v. Mobile Medic Ambulance Service, Inc. d/b/a American Medical Response, Inc., William Bassett, and John Does 1-20" being civil action number 251-07-976CIV on the docket of said Circuit Court, to the United States District Court for the Southern District of Mississippi, Southern Division, pursuant to the statutes and rules in such cases made and provided.

WITNESS MY SIGNATURE hereto, this the 8 day of November, 2007.

  
JOHN B. CLARK, ATTORNEY FOR MOBILE MEDIC  
AMBULANCE SERVICE, INC. D/B/A AMERICAN  
MEDICAL RESPONSE, INC.

117289PTE